

The opinion in support of the decision being  
entered today is not binding precedent of the Board.

Paper 18

Filed by: Trial Section Motions Panel  
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Filed: December 18, 2001



## UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**FAXED**

GEORGE J. STEPNIOWSKI  
Junior Party  
(U.S. Patent 5,648,066)

DEC 18 2001

PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

v.

PASCAL ARNAUD AND MYRIAM MELLUL  
Senior Party,  
(U.S. Application 09/049,927).

Patent Interference No. 104,751

Before: SCHAFER, TORCZON and TIERNEY, Administrative Patent Judges.  
TIERNEY, Administrative Patent Judge.

**JUDGMENT AND RECOMMENDATION**  
(Pursuant to 37 CFR § 1.662(a) and § 1.659(c))

**I. Judgment**

Junior Party Stepniewski has requested adverse judgement as to the invention defined by Count 1, the sole count in the interference. (Paper No. 17).

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**II. Recommendation**

It is recommended that the examiner of Arnaud, U.S. Application 09/049,927 review the Communication (Paper No. 3). As set forth in the Communication, there is a question as to Arnaud's compliance with the written description requirement of 35 U.S.C. § 112, first paragraph for its broadly claimed "non-volatile silicone fluid." Upon a review of the issues raised in the Communication, the examiner should enter any rejection deemed necessary.

Upon consideration of the record, it is:

**ORDERED** that judgment on priority as to Count 1 (Notice Declaring Interference, Paper No. 1, page 5), the sole count in the interference, is awarded *against* Junior Party Stepniewski.

**FURTHER ORDERED** that Junior Party Stepniewski is not entitled to a patent containing claims 1-25 of Stepniewski, U.S. Patent 5,648,066.

**FURTHER ORDERED** that a copy of this final decision shall be placed and given a paper number in the file of Stepniewski, U.S. Patent 5,648,066 and Arnaud et al., U.S. Application 09/049,927.

**FURTHER ORDERED** that if there is a settlement agreement, attention is directed to 35 U.S.C. § 135(c) and 37 CFR § 1.661.

**RECOMMENDED** that the examiner review the Communication, Paper No. 3 and make any rejections deemed necessary to ensure Arnaud's compliance with 35 U.S.C. § 112, first paragraph, written description.

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Administrative Patent Judge )  
  
*Richard Torczon*  
RICHARD TORCZON )  
Administrative Patent Judge )  
  
*Michael Tierney*  
MICHAEL P. TIERNEY )  
Administrative Patent Judge )

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